THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25014 of 2006

Dated: 06-12-2006

Between:

Dr. Bandi Sham Prasad.

..... PETITIONER

AND

The State of Andhra Pradesh, rep. by its Secretary, Revenue Department, Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.25014 of 2006

ORDER:

The petitioner approached respondent No.3 for grant of mutation in his name stating that he purchased the land admeasuring Acs.5.94 cents in survey No.200/1C and Acs.4.27 in survey Nos.192/1, 200/1C and 200/2 situated at Chendurthy Village, Gollaprolu Mandal in East Godavari District. Respondent No.3 by endorsement dated 15.05.2004 refused to entertain the application on the ground that the land is subject matter in a suit, being O.S.No.980 of 2003, on the file of the Court of I Additional Junior Civil Judge, Kakinada, for injunction. The petitioner, therefore, filed an application before respondent No.2, presumably under Section 9 of the Andhra Pradesh Rights in Land & Pattadar Pass Books Act, 1971, and the same was rejected on 23.03.2006 observing that when the matter is pending before the civil Court, it would not be proper to interfere with the endorsement given by respondent No.3.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A), this Court holds that the endorsement given by respondent No.3 as well as the order of respondent No.2 are unsustainable in law. The bar contained in Rule 9 (1) (c) (ii) of the Andhra Pradesh Rights in Land & Pattadar Pass Book Rules, 1989, prohibiting summary enquiry in cases of mutation/change of record of rights necessitated by death of registered holder has no application when a suit for injunction is pending. This position is made clear by mere reference to the Rule as mentioned hereinabove. Therefore, the impugned order dated 23.03.2006 is set aside and the matter is remitted to respondent No.2 observing that after giving liberty to the petitioner, respondent No.2 may dispose of the matter within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and direction, is accordingly disposed of. No costs.

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V.V.S.RAO, J

06th December, 2006
ghn